



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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DIVISION OF SOCIAL JUSTICE
Environmental Protection Bureau

April 15, 2024

BY CM/ECF

The Honorable Lewis J. Liman
United States District Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

DATE: April 15, 2024

SO ORDERED.



LEWIS J. LIMAN
United States District Judge

Re: *Chan v. U.S. Department of Transportation*
No. 1:23-cv-10365-LJL
Mulgrew v. U.S. Department of Transportation
No. 1:24-cv-01644-LJL

Dear Judge Liman:

Our office represents defendant New York State Department of Transportation (“Department”) in the above-referenced *Mulgrew* matter. We also represent defendant Stephanie Winkelhake, P.E., in her official capacity as chief engineer of the Department, in the above-referenced *Chan* matter. Pursuant to Federal Rule of Civil Procedure 25(d), Ms. Winkelhake replaces named defendant Nicholas Choubah, P.E., after his retirement.

We write to ask for a slight change in briefing schedule in light of the filing of a cross-motion. The Department and Ms. Winkelhake have filed Eleventh Amendment motions to dismiss the claims against them in *Mulgrew* and *Chan* [*Mulgrew* ECF No. 49; *Chan* ECF No. 61]. Under the existing Court-ordered schedule, the Department’s and Ms. Winkelhake’s reply briefs on those motions are due on Monday, April 22 [*Chan* ECF No. 57].

On April 5, 2024, the *Mulgrew* plaintiffs filed a cross-motion to amend their complaint along with their opposition to the Department’s motion [*Mulgrew* ECF No. 63]. Under Southern District Local Rule 6.1(b), the Department has until Friday, April 19 to oppose the cross-motion, and the *Mulgrew* plaintiffs have until Friday, April 26 for their reply.

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The Department and Ms. Winkelhake seek an extension of one business day on the Department's time to respond to the cross-motion so that they can file one brief to serve as the reply on their motions and the opposition to the cross-motion. This would avoid the need for counsel to file two briefs that may be largely duplicative on successive business days, April 19 and 22, and thus hopefully make the Court's review of the motions and cross-motion somewhat easier. If the Court grants the request, the remainder of the briefing schedule for the two motions and the cross-motion would be:

Filing	Deadline
The Department's and Ms. Winkelhake's combined replies on their motions to dismiss and opposition to the <i>Mulgrew</i> plaintiffs' cross-motion	April 22, 2024
The <i>Mulgrew</i> plaintiffs' reply on their cross-motion	April 29, 2024

No party opposes this request. The Department, Ms. Winkelhake and the *Mulgrew* and *Chan* plaintiffs have also agreed to limits of 15 pages for the *Chan* plaintiffs' April 15, 2024 opposition to Ms. Winkelhake's motion, 15 pages for the Department's and Ms. Winkelhake's April 22, 2024, combined brief and 10 pages for the *Mulgrew* plaintiffs' April 29, 2024 reply brief.

The Department and Ms. Winkelhake respectfully ask that the Court approve this slight adjustment to the briefing schedule as well as the page limits. Thank you for the Court's consideration of this request.

Respectfully submitted,

Af G. RL

Andrew G. Frank
 Assistant Attorney General

c (by CM/ECF):

All counsel of record in *Chan* and *Mulgrew*